

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Jurisdictional Separations and Referral to the)	CC Docket No. 80-286
Federal-State Joint Board)	

REPLY OF QWEST CORPORATION

Qwest Corporation (Qwest), through counsel and in accordance with the Federal Communications Commission's (Commission) *Notice of Proposed Rulemaking (NPRM)*,¹ files this reply to comments filed by The National Association of State Utility Consumer Advocates and The New Jersey Division of Rate Counsel (NASUCA) on extending the existing separations freeze.²

NASUCA argues that the Commission should condition any extension of the separations freeze on three things: 1) adoption of the interim adjustments proposed by the State Members of the Federal-State Joint Board (State Members); 2) treatment of an extension as an exogenous cost adjustment under the Commission's price cap rules; and 3) re-imposing ARMIS reporting requirements that were eliminated as a result of the Commission's decision to forbear from applying ARMIS and cost assignment rules to Qwest and other companies.³ The Commission

¹ *In the Matter of Jurisdictional Separations and Referral to the Federal-State Joint Board, Notice of Proposed Rulemaking*, CC Docket No. 80-286, FCC 10-47, rel. Mar. 29, 2010.

² See Comments of The National Association of State Utility Consumer Advocates and The New Jersey Division of Rate Counsel, filed herein, Mar. 19, 2010.

³ *In the Matter of Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering; Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements; Petition of Qwest Corporation for Forbearance from Enforcement of the Commission's ARMIS and 492A Reporting Requirements Pursuant to 47 U.S.C. § 160(c); Petition of the Embarq Local Operating Companies for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain of ARMIS Reporting Requirements; Petition of Frontier and Citizens ILECs for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain of the Commission's ARMIS Reporting*

should reject NASUCA's proposed conditions as lacking in merit and extend the separations freeze as proposed in the *NPRM*.

Qwest will not comment, herein, on the merits of State Members' proposal for interim adjustments to the separations freeze -- other than to say it lacks merit -- since this proposal is being addressed in a parallel notice and comment proceeding.⁴

NASUCA is "grasping at straws" when it suggests that the Commission treat an extension of the separations freeze as an exogenous cost adjustment under the Commission's price cap rules. There is no basis for this suggestion and it should be rejected. The Commission's price cap rules specifically address exogenous cost changes and separations -- and include cost changes caused by changes in the Separations Manual.⁵ Contrary to the assertions of NASUCA, there have been no changes in the Separations Manual -- it has simply been frozen in time pending major separations reform.

Lastly, NASUCA's proposal that the Commission condition the extension of the separations freeze on the re-imposition of ARMIS reporting requirements on Qwest and other

Requirements; Petition of Verizon for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain of the Commission's Recordkeeping and Reporting Requirements; Petition of AT&T Inc. For Forbearance Under 47 U.S.C. § 160 From Enforcement of Certain of the Commission's Cost Assignment Rules, 23 FCC Rcd 13647 (2008); *pet. for review pending sub nom. NASUCA v. FCC*, cons. Case Nos. 08-1226 (D.C. Cir. Docketed June 23, 2008) and 08-1353 (D.C. Cir. filed Nov. 4, 2008), *in abeyance*, Feb. 13, 2009; *In the Matter of Jurisdictional Separations and Referral to the Federal-State Joint Board*, Order and Further Notice of Proposed Rulemaking, 21 FCC Rcd 5516 (2006); *In the Matter of Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, Report and Order, 16 FCC Rcd 11382 (2001). *See also*, Public Notice, Wireline Competition Bureau Approves Compliance Plans, 23 FCC Rcd 18417 (2008).

⁴ *See* Public Notice, Federal-State Joint Board on Separations Seeks Comment on Proposal for Interim Adjustments to Jurisdictional Separations Allocation Factors and Category Relationships Pending Comprehensive Reform and Seeks Comments on Comprehensive Reform, FCC 10J-1, rel. Mar. 30, 2010. Qwest intends to file comments in this proceeding.

⁵ 47 C.F.R. § 61.45(d)(iii).

companies affected by the Commission's Cost Assignment and ARMIS Forbearance decisions⁶ must be rejected since it has no legal basis. The Commission adopted its Cost Assignment and ARMIS Forbearance decisions, which relieved Qwest of the obligation to file ARMIS reports, in compliance with the forbearance criteria contained in the Communications Act.⁷ The Commission does not have the authority to ignore its earlier forbearance decisions and re-impose ARMIS reporting requirements as a condition of extending the existing separations freeze. Nor has the compelling case supporting such forbearance changed in any way. If anything, that case is even more compelling now.

⁶ See note 3, *supra*.

⁷ On September 6, 2008, the Commission granted Qwest relief from the cost assignment rules, including the Part 36 separations rules and the obligation to file certain ARMIS reports (*see* note 3, *supra*, 23 FCC Rcd 13647). On December 8, 2008, the Commission granted Qwest relief from the obligation to file most of the information contained in the remaining ARMIS reports. In both decisions, the Commission found that forbearance from applying the ARMIS reporting requirements to Qwest met the statutory criteria for forbearance contained in Section 10 of the Communications Act of 1934, as amended. *See In the Matter of Petition of Qwest Corporation for Forbearance from Enforcement of the Commission's ARMIS and 492 Reporting Requirements Pursuant to 47 U.S.C. § 160(c); Petition of Verizon for Forbearance Under 47 U.S.C. from Enforcement of Certain of the Commission's Recordkeeping and Reporting Requirements*, Memorandum Opinion and Order, 23 FCC Rcd 18483 (2008). This relief was conditioned upon the Wireline Competition Bureau's approval of Qwest's Compliance Plan. On December 31, 2008, the Bureau approved Qwest's Compliance Plan, as filed (*see* note 3, *supra*, 23 FCC Rcd 18417).

The Commission should reject NASUCA's proposed conditions as without merit and extend the separations freeze until June 30, 2011.

Respectfully submitted,

QWEST CORPORATION

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April 26, 2010

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **REPLY OF QWEST CORPORATION** to be: 1) filed with the FCC via its Electronic Comment Filing System in CC Docket No. 80-286; 2) served via e-mail on Mr. Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau at charles.tyler@fcc.gov; and 3) served via e-mail on the FCC's duplicating contractor, Best Copy and Printing, Inc. at fcc@bcpiweb.com.

/s/ Richard Grozier

April 26, 2010